a product shall be presumptive evidence that the entity may not truthfully certify under § 40.2 that the same, or substantially the same, product does not violate the Act or rules thereunder.

[66 FR 42283, Aug. 10, 2001, as amended at 67 FR 62879, Oct. 9, 2002]

§ 40.4 Amendments to terms or conditions of enumerated agricultural contracts.

(a) Designated contract markets must submit for Commission approval under the procedures of § 40.5, prior to its implementation, any rule or rule amendment that, for a delivery month having open interest, would materially change a term or condition as defined in § 40.1(f), of a contract for future delivery in an agricultural commodity enumerated in section 1a(4) of the Act, or of an option on such a contract or commodity.

(b) The following rules or rule amendments are not material changes:

(1) Changes in trading hours;

(2) Changes in lists of approved delivery facilities pursuant to previously set standards or criteria;

(3) Changes to terms and conditions of options on futures other than those relating to last trading day, expiration date, option strike price delistings, and speculative position limits;

(4) Reductions in the minimum price fluctuation (or ''tick'');

(5) Changes required to comply with a binding order of a court of competent jurisdiction, or of a rule, regulation or order of the Commission or of another Federal regulatory authority;

(6) Corrections of typographical errors, renumbering, periodic routine updates to identifying information about approved entities and other such nonsubstantive revisions of a product's terms and conditions that have no effect on the economic characteristics of the product;

(7) Fees or fee changes of less than $1.00; and

(8) Any other rule, the text of which has been submitted to the Secretary of the Commission at least ten days prior to its implementation at its Washington, DC, headquarters and that has been labeled ''Non-material Agricultural Rule Change,'' and with respect to which the Commission has not noti-

fied the contract market during that period that the rule appears to require or does require prior approval under this section.

[66 FR 42283, Aug. 10, 2001, as amended at 67 FR 62879, Oct. 9, 2002]

§ 40.5 Voluntary submission of rules for Commission review and approval.

(a) *Request for approval of rules.* A registered entity may request pursuant to section 5c(c) of the Act that the Commission approve any rule or proposed rule or rule amendment under the following procedures:

(1) Three copies of each rule or rule amendment submission under this section shall be furnished in hard copy form to the Secretary of the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 or electronically in a format specified by the Secretary of the Commission. One copy of each submission shall be transmitted by the registered entity to the regional office of the Commission having local jurisdiction over the registered entity. Each request for approval under this section shall be in the following order and shall:

(i) Label the submission as ''Request for Commission rule approval'';

(ii) Set forth the text of the rule or proposed rule (in the case of a rule amendment, deletions and additions must be indicated);

(iii) Describe the proposed effective date of a proposed rule and any action taken or anticipated to be taken to adopt the proposed rule by the registered entity or by its governing board or by any committee thereof, and cite the rules of the entity that authorize the adoption of the proposed rule;

(iv) Explain the operation, purpose, and effect of the proposed rule, including, as applicable, a description of the anticipated benefits to market participants or others, any potential anticompetitive effects on market participants or others, how the rule fits into the registered entity's framework of self-regulation, and any other information which may be beneficial to the Commission in analyzing the proposed rule. If a proposed rule affects, directly or indirectly, the application of any